

APPEAL NO. 022193
FILED OCTOBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on August 5, 2002, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that he had disability from November 5 through December 27, 2001. The appellant (carrier) has appealed and challenges the sufficiency of the evidence to support these determinations. The claimant's response urges the sufficiency of the evidence to warrant our affirmance.

DECISION

Affirmed.

The claimant testified that on _____, while working as a maintenance man for the employer, there was water on the floor in the area where he was working; that he placed a piece of cardboard on the floor to step on; that as he lifted a box to place on a shelf, his legs split apart; and that to keep from falling, he let the box go and grabbed onto shelving. He said that he felt immediate low back pain as well as pain in his groin and down his right leg. The claimant further stated that he did not return to work the next day because he was sick and saw a doctor for nausea; that he had the following day off; and that he then began receiving back massage treatments and continued to work in pain for two weeks before having to stop work altogether. He conceded that in January 2002 he was diagnosed with prostate gland cancer and began injection treatments. The medical records related to the treatment of this condition are not in evidence.

The carrier contends that the claimant's medical records reflect his having given a number of different accounts of his accident at work and that one of two Employee's Notice of Injury or Occupational Disease and Claim for Compensation (TWCC-41) forms stated the date of injury as _____, while the other, which he said was completed by his daughter, stated the date of injury as (alternate date of injury). The carrier contended that the conflicting and inconsistent histories of his injury appearing in the documentary evidence reflect adversely on the credibility of the claimant's evidence. However, it is the hearing officer who is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and who, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel, an appellate reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge